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TAGS: [PTER](#) [UNSC](#) [SY](#) [LE](#)
SUBJECT: LEBANON: TRIBUNAL COSTS RISING WHILE FUNDS STILL
FAR SHORT OF GOAL

Classified By: Ambassador Alejandro D. Wolff, per 1.4 (b) and (d)

¶1. (C) Summary. UN Legal Counsel Nicolas Michel convened a meeting of major donors to the Special Tribunal for Lebanon (U.S., UK, France, Germany, the Netherlands, and Lebanon) on December 18. Although Michel pressed for the Management Committee to be set up immediately, donors could not adopt the Terms of Reference (TOR) due to a disagreement over whether decisions should be taken by consensus. Michel discussed at length plans to ensure the security of judges, noting the SYG had already approved the selection list, but would delay public announcement as long as possible. While the security of the non-Lebanese judges would be the responsibility of their countries of origin, he said the UN has developed contingency plans to relocate the Lebanese judges abroad if necessary, potentially even before a public announcement is made of their selection. Total cost to sustain all the judges after they are relocated would range from USD 50-100,000 per month depending on the size of their families.

¶2. (C) Summary, cont'd. The Lebanese PR added that the judges would face other security-related costs such as guarding their homes in Lebanon and protecting their families and asked the Management Committee to establish a specific budget allocation to cover these expenses as well. He estimated these other costs would not exceed USD 500,000 per year but would continue for the life of the tribunal. Michel, recalling that the UN has appointed a prosecutor, selected judges, initialed an HQA, and identified a building, expressed concern that donors have not contributed nearly enough funds for the SYG to declare the court operational. Out of the USD 50 million in cash and an extra USD 90 million in pledges now needed -- estimates which could still rise by USD 4-5 million per year depending on the staff terms and conditions of service chosen by the Management Committee -- the SYG has so far received only USD 5 million in cash and roughly USD 26.5 million in pledges. The next meeting of donors is tentatively scheduled for January 9, 2008. End Summary.

¶3. (C) ACTION REQUEST: USUN requests Department guidance as soon as possible on the issues of consensus decision-making in the Management Committee, the relocation arrangements proposed by the UN for Lebanese judges, as well as the request by the GOL for a dedicated budget to cover other security-related expenses for the judges.

Michel Raises Three Issues

¶4. (U) Michel raised three issues for discussion among donors: establishment of the Management Committee and adoption of its terms of reference, financial and security issues for judges, and the current state of contributions to the tribunal. Michel did not/not raise other issues

pertaining to the tribunal, such as terms and conditions of service of staff or options to renovate the building that will house the tribunal, because he acknowledged that several delegations did not yet have final instructions on those issues. Michel proposed that the donors meet again on January 9, 2008 to resolve the issues that could not be decided at this meeting.

Management Committee TORs Not Agreed

15. (SBU) Although Michel pressed for the Management Committee to be established immediately so that it could take official decisions about the set up of the tribunal, donors could not reach agreement on its terms of reference (Note: Draft TORs e-mailed to IO and L. End Note.). USUN argued that the Committee should make decisions solely by consensus in order to ensure that U.S. taxpayers do not fund programs approved over the objections of the USG. The other participants, including the Netherlands, Germany, France, the UK, and Lebanon, all argued that decisions should be made by consensus "to every extent possible" to ensure that one member cannot hold up the decisions of the Committee. The Dutch Legal Advisor said the Committee would in practice never take decisions against the wishes of a major contributor, such as the U.S., but the escape clause was necessary to ensure efficient functioning of the Committee. The other participants also noted that the TORs for the Management Committee of the Special Court for Sierra Leone (SCSL) include the "to every extent possible" language, but all decisions of the SCSL have thus far been made by consensus. Delegates agreed to refer the issue to DPRs or PRs and defer adoption of the TORs until the next donors meeting in January 2008, unless the issue is resolved

USUN NEW Y 00001185 002 OF 003

beforehand.

Contingency Plans for Relocation of Judges

16. (S) Recalling that the SYG had approved the list of judges but would delay a public announcement as long as possible, Michel discussed at length plans to ensure the security of judges even before the public announcement is made. For the non-Lebanese judges, he emphasized that their security is the responsibility of their governments until they become UN employees (when the tribunal becomes operational). To that end, the Secretariat would soon inform the judges' countries of nationality of their selection to ensure the right security arrangements are put in place. For the Lebanese judges, he said the Secretariat had developed contingency plans to relocate them outside of Lebanon if necessary, especially in case their names leak before the public announcement is made. Michel expressed concern that the names could leak by February 2008, when the UN plans to convene the judges in New York for an initial meeting, and therefore emphasized that the UN had to be prepared to act beforehand.

17. (S) Arguing that it would not be possible for the Lebanese judges to live in Europe, for example, on a Lebanese salary, Michel said the UN had estimated the cost of providing them a daily subsistence allowance (DSA) wherever they are relocated. For all four Lebanese judges together, this would cost roughly USD 50,000 per month. If family members are included, the cost could rise to USD 100,000 per month. These costs would be exclusive of security, Michel noted, but he agreed to ask UN DSS to examine the costs of protection outside Lebanon if needed -- although he clarified that such protection could not/not be funded out of the UN regular budget. Michel said the Secretariat is in talks with countries that might be willing to host the relocated judges, but he did not want to provide more detail for security reasons. The Lebanese PR told USUN separately that Lebanon would not/not be able to bear the costs of relocating the

judges outside of Lebanon due to the "caretaker" status of the current GOL.

Lebanon Requests Extra Compensation for Judges

18. (S) Beyond the cost to sustain the judges after they are relocated, which would presumably end once they begin to receive their salaries, Lebanese PR Nawaf Salam argued that the judges would need extra compensation to cover other security-related issues such as guarding their homes in Lebanon or protecting other family members. Agreeing that his original idea that the judges continue to receive their Lebanese salaries after they become employees of the tribunal could not work because it would create the appearance of impropriety, he argued instead that the Management Committee should create a dedicated budget to cover the actual costs incurred by the judges for these other security-related issues. This budget would be open to all judges facing security risks, not just those from Lebanon, and could be funded as part of the regular tribunal budget or separately. Salam estimated that the costs of these additional measures would not exceed USD 500,000 per year and emphasized that this would not represent a premium for the judges' service. He also said he expected these costs to continue for the life of the tribunal. Michel, noting that two of the four Lebanese judges have said resolving this issue is "critical to their ability to serve," asked donors to take a decision on this issue at their next meeting in January 2008. (Note: After Michel deferred decision until the next donors meeting, there was no further discussion of security measures. End Note.)

Funding Still Well Short of Mark

19. (SBU) Recalling that the Secretariat has selected a prosecutor, initialed a host country agreement, identified a building for the tribunal, and selected judges, Michel expressed concern that donors had yet to contribute nearly enough funds to enable the SYG to declare the tribunal operational. Based on the cost to renovate the tribunal HQ as well as to relocate the judges, etc., Michel raised the SYG's initial estimate for cash required for set-up and the first year of operations to USD 50 million, explaining that the original estimate had not/not included setup costs. Pledges required for the second and third years of operations would be USD 90 million. All told, therefore, the SYG would need roughly USD 140 million in cash and pledges to declare the tribunal operational. Michel also said the Management

USUN NEW Y 00001185 003 OF 003

Committee's pending decision on terms and conditions for service could raise the cost estimates by as much as USD 4-5 million per year.

10. (SBU) So far, Michel said the SYG had received only USD 5 million in actual deposits from Lebanon (USD 4.9 million) and Turkey (USD 150,000). (Note: The U.S. contribution has yet to reach the UN bank account, despite repeated requests from USUN to the Department. End Note.) Total written and oral pledges, as described below, equal roughly USD 26.5 million. Michel appealed to donors to increase their contributions and encourage others to contribute. (Note: The Secretariat has told USUN separately that the SYG has sent letters to all member states requesting contributions and that he raises the issue in his meetings with prospective donors. OLA officials have also suggested to USUN that once a budget is finalized -- after the Management Committee has taken the necessary decisions on building renovations and terms and conditions of service -- that the Committee could convene a pledging conference. End Note.)

Written pledges:

-- United States: USD 5 million

- Austria: USD 120,000
- Czech Republic: USD 50,000
- Romania: TBD (written pledge w/o dollar amount)

Oral pledges:

- Lebanon: USD 12 million
- France: USD 6 million (over three years)
- Germany: USD 1 million
- UK: USD 1 million
- Pakistan: USD 1 million (although Michel noted this pledge came before the country's political crisis, and OLA has not heard from Pakistan since)
- Belgium: USD 250,000
- Italy: USD 250,000

Oral commitments without dollar amounts:

- Saudi Arabia
 - Kuwait
 - United Arab Emirates
 - Denmark
- Khalilzad